IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1591 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HASAMKHAN HABIBKHAN BELIF

Versus

HUSAINBHAI ALIBHAI MULTANI

Appearance:

MR GM JOSHI for the Petitioner.

MR SUNIL C PATEL for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/02/2004

ORAL JUDGEMENT

Heard Mr.Joshi for the petitioner.

This is a revision application filed under Section 115 of the Code of Civil Procedure.

The present applicant gave an application with the trial court under Order 1 Rule 10 of the Code of Civil Procedure, for allowing him to be joined as a party in the pending suit. The case of the applicant is that the applicant is vitally interested in the suit premises as the premises was taken on rent by one Husainbhai Alibhai and the present applicant, and that they were doing partnership business. On the ground that the applicant is vitally interested, the present applicant gave an application with the trial court, for allowing him to be joined as a party in the pending suit. However, the learned trial Judge, by the impugned order, dated 11th July, 1997, rejected the said application.

So far as the impugned order is concerned, the same is in connection with the interlocutory order passed by the trial court in a pending suit. In view of the amendment in Section 115 of the Code of Civil Procedure, this CRA is not maintainable against the impugned order. This CRA is accordingly rejected as not maintainable. Rule is discharged. No costs.

It is clarified that if the applicant so desires, he can file a petition under Article 227 of the Constitution of India, or, if the applicant has got any substantive right in the disputed property, it is always open for the applicant to take appropriate recourse as per law.

16th February, 2004 (P.B. Majmudar, J.)

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(apj)